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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,580	05/14/2004	Paul K. MEEKER	43064-0030	3579
24115	7590	12/02/2005	EXAMINER	
BUCKINGHAM, DOOLITTLE & BURROUGHS, LLP			EDELL, JOSEPH F	
50 S. MAIN STREET			ART UNIT	
AKRON, OH 44308			PAPER NUMBER	
			3636	

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/709,580		MEEKER ET AL.	
	Examiner		Art Unit	
	Joseph F. Edell		3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Oath/Declaration

1. A supplemental oath or declaration is required under 37 CFR 1.67 such that the title listed on the original oath or declaration is the same as the amended title. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP § 602.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8, 10, 23-30, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,854,639 to Burleigh et al.

Burleigh et al. disclose a car seat that includes all the limitations recited in claims 1-8, 10, 23-30, and 32. Burleigh et al. show a car seat having a seat member 12 (Fig. 1), a back member (Fig. 1) connected to the seat member, and a means for selectively positioning and retaining the movable component relative to the fixed component (Fig. 2) by a pair of outwardly biased shafts 116 (Fig. 6) engaging a locking means 100, 102 (Fig. 6) on the fixed component that allows for discrete incremental and/or infinitely

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variable movement wherein the back member has a fixed component 18 (Fig. 1), a movable component 30 (Fig. 1) with an upper headrest area (Fig. 1) with a pair of forward extending wings 32,34 (Fig. 1) and a lower area 44 (Fig. 1) with a mating contour surface such that the upper headrest area is in an invariant fixed relationship to the lower area, the fixed and movable components are in an overlapping essentially gapless relationship with respect to each other with sliding movement between the components (see Fig. 1) forming an essentially flat surface, the movable component is attached in front of the fixed component (see Fig. 2), the fixed component and movable component permit telescoping movement therebetween (see Figs. 2 and 5), telescoping movement is fixed by a length of at least two longitudinal channels 96,98 (Fig. 5) in the fixed component, and two symmetrical slots (Fig. 5) in the movable component that allow a shoulder belt to penetrate through the movable component.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh et al. in view of U.S. Patent No. 5,845,968 to Lovie.

Burleigh et al. disclose a car seat that is basically the same as that recited in claims 9 and 31 except that the locking means lacks mating teeth and grooves, as recited

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in the claims. Lovie shows a car seat similar to that of Burleigh et al. wherein car seat has a fixed component 30 (Fig. 7), and a movable component 26 (Fig. 7) such that selectively positioning the movable component relative to the fixed component by a locking means (Fig. 8) with mating teeth 98, 100 (Fig. 8) and grooves 76 (Fig. 8).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the car seat of Burleigh et al. such that the width of the fixed component and the movable component remain essentially the same and the locking means are mating teeth and grooves, such as the car seat disclosed in Lovie. One would have been motivated to make such a modification in view of the suggestion in Lovie that the mating teeth and grooves of the locking means provides fixed securement of the movable member relative to the fixed component.

6. Claims 11-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burleigh et al. in view of Lovie as applied to claims 9 and 31 above, and further in view of U.S. Patent No. 5,803,543 to Hartmann.

Burleigh et al., as modified, disclose a car seat that is basically the same as that recited in claims 11-22 except the width of the movable component is not the same as the width of the fixed component, as recited in the claims. See Figures 1-8 of Burleigh et al. for the teaching that the movement of the movable component relative to the fixed component provides contiguous support and parallel thereto, and an inner contour of the movable component mates and nests with an outer contour of the fixed component. Hartmann shows a car seat similar to that of Burleigh et al. wherein a car seat has a seat member 2 (Fig. 8), and a back member (Fig. 8) with a fixed component 3 (Fig. 8)

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having a width and a movable component 5 (Fig. 8) having a width substantially the same as the width of the fixed component wherein the back member may pivot relative to the seat member. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the car seat of Burleigh et al. such that the width of the movable component is substantially the same as the width of the fixed component, such as the car seat disclosed in Hartmann. One would have been motivated to make such a modification in view of the suggestion in Hartmann that the seat member and back member configuration with the movable and fixed components having the same width allows the car seat to be compactly folded for easy storage and transportation.

Response to Arguments

7. Applicant's arguments filed 12 September 2005 have been fully considered but they are not persuasive. Applicant argues that Burleigh et al. fail to teach an upper headrest area in an invariant fixed relationship to the lower area because the headrest moves with respect to the back rest 18. However, Applicant fails to address the distinction referred to the previous Office Action that the movable component of Burleigh et al. has an upper headrest area and a lower area 44 that is capable of hooking the seat belts. The upper headrest area is in an invariant fixed relationship to the lower area 44. Next, Applicant argues that the Burleigh et al. fail to teach fixed and movable components that are contiguous or in a gapless relationship because the fixed and movable component lie in separate planes from one another. However, the intent of

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both embodiments taught in Burleigh et al. is for fixed and movable components that form a support for an infant with continuous head and back rests. While the fixed and movable components of Burleigh et al. may not inter-fit in the same manner as the instant application, car seat of Burleigh et al. teaches all the limitations recited in independent claims 1 and 23.

With respect to the rejection of claims 9 and 31, Applicant argues that modifying the car seat of Burleigh et al. in view of Lovie would not solve the problems of the head protection area having a raised portion, which is uncomfortable to the occupant. However, Applicant does not argue that the modification of Burleigh et al. in view of Lovie fails to teach any limitation of claims 9 and 31 fails to teach any structural feature of the claims. While the modified car seat of Burleigh et al. may not be as comfortable as the car seat of the instant application, all the claim limitations are taught and the rejection is maintained.

With respect to the rejection claims 11-22, Examiner does not agree that modifying the teachings of Burleigh et al. creates a car seat that will have a gap between the components. Burleigh et al. teach a car seat that has fixed and movable components of back member that provide a contiguous, gapless support which is essentially flat to support the back of a seated infant. While the seat back of Burleigh et al. may not be as flat as the seat back of the instant application, the modified car seat of Burleigh et al. teaches all the claim limitations of independent claim 11.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).


JE
November 28, 2005


Peter M. Cuomo
Supervisory Patent Examiner
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